

REMARKS

Claims 1-7, 9-18 and 20 are pending in this Application. Claims 8, 19 and 21-22 have been cancelled without prejudice or disclaimer. Claims 1, 3, 5-6, 9-18 and 20 have been amended for stylistic purposes, and to more clearly define the invention.

Specifically, independent claim 1 has been amended to indicate that the amino acid composition has a general formula of at least one of “ $\text{H}_2\text{N-CH(R)-C(O)-OH}$, -HN-CH(R)-C(O)-OH , $\text{H}_2\text{N-CH(R)-C(O)-O-}$, and -HN-CH(R)-C(O)-O- .” Support for these amendments can be found at least in Figures 1-3, 9-10 and 12 of the Application.

Independent claim 1 has also been amended to indicate that the “R functionality comprises a fullerene species derived from a buckyketone.” Support for this claim amendment can be found at least in Paragraphs 31-36 and 46-51 of the Application. Support for the above claim amendment can also be found in Figures 1-3, 9-10 and 12 of the Application.

Claim 10 has also been amended to independently pertain to a synthetic polymer that comprises the amino acid composition described in claim 1. Support for these amendments can be found at least in Paragraphs 26-28 and Figures 8 and 12 of the Application.

Figure 12 has been amended to identify fullerene peptide I by SEQ ID NO. 1. Likewise, Paragraphs 7, 24, 48 and 52-53 of the Specification have been amended to correct minor typographical errors, and to identify fullerene peptides I and II by SEQ ID NOS. 1 and 2, respectively. A sequence listing has also been included below Paragraph 57. These amendments do not add any new matter. Applicants hereby address the Examiner’s remarks in the order that they appeared in the Office Action.

I- Objections to Oath or Declaration

In the Office Action, the Examiner objected to the oath or declaration for allegedly being defective. Office Action, page 2. To expedite prosecution, Applicants hereby submit a new Declaration that complies with the requirements of 37 C.F.R. § 1.67 (a).

II- Request for Sequence Listing

In the Office Action, the Examiner has alleged that the Application fails to comply with the sequence disclosure requirements set forth in 37 C.F.R. § 1.821 through 1.825. Office Action, pages 2-3. Specifically, the Examiner has indicated that amino acid sequences subject to the sequence disclosure rules are present in Figure 12 and at page 12, line 2 and page 13, line 4 of the specification. *Id.* at page 2.

Accordingly, Applicants hereby submit a computer readable form (CRF) copy of a Sequence Listing for the above matter for entry into the above-referenced Application. Applicants submit that the Sequence Listing submitted herewith is compliant with the requirements of 37 CFR § 1.821 through 1.825. Applicants further state that the contents of the computer readable form copy of the Sequence Listing are the same as the written sequence listing in the Application, and no new matter has been introduced.

III- Objections to the Drawings

In the Office Action, the Examiner objected to Figure 12 because “SEQ ID NOS need to be inserted after the amino acid sequences recited in Figure 12.” Office Action, page 13. Accordingly, Applicants hereby submit Replacement Sheet 12/13. This Replacement Sheet contains a revised version of Figure 12 with SEQ ID NOS inserted after corresponding amino acid sequences.

IV- Objections to the Disclosure

The Examiner also objected to the disclosure for containing various misspellings and a lack of reference to SEQ ID NOS. Office Action, pages 3-4. Applicants respectfully submit that these objections are considered moot in view of the above-mentioned amendments to Paragraphs 7, 24, 48 and 52-53 of the Application.

V- Rejections under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected claims 1-22 under the second paragraph of 35 U.S.C. § 112 for allegedly being indefinite. Office Action, pages 4-5. In particular, the Examiner indicated that the meaning of the phrase “typical biological conditions” in claim 1 is allegedly “unclear.” *Id.* at page 4. The Examiner also indicated that Claims 3, 17 and 20 are allegedly indefinite because they are allegedly incomplete for not providing actual chemical formulae. *Id.* In addition, the Examiner indicated that the reference to amino acids in claims 10-12 and 22 is unclear. *Id.* at pages 4-5. The Examiner also indicated that claims 13-14 and 21 allegedly lack clarity. *Id.* at page 5.

Applicants respectfully submit that the deletion of the phrase “typical biological conditions” from claim 1 renders the Examiner’s rejection of that claim moot. Likewise, the addition of chemical formulae to describe various elements in claims 3, 17 and 20 addresses the Examiner’s rejections of those claims. In addition, amendments to claims 10-14 render the Examiner’s rejections of those claims as moot. The Examiner’s rejections of claims 21-22 are also considered moot in view of the cancellation of those claims.

VI- Claim Objections

The Examiner’s objections to claims 10-11, 5-7, 10-16,18-22 and 8-9 (as set forth on pages 6-7 of the Office Action) are also considered moot in view of the above-mentioned claim amendments and claim cancellations. Specifically, the Examiner’s objections to claims 10-11 for various informalities are considered moot in view of the amendments to those claims.

Likewise, the Examiner's objections to claims 5-7 and 10-16 under 37 C.F.R. §1.75(c) for allegedly failing to further limit the subject matter of a previous claim are also considered moot in view of amendments to independent claims 1 and 10.

The Examiner's rejections of claims 18-22 under 37 C.F.R. §1.75(c) for allegedly being in improper multiple dependent form are also considered moot in view of amendments to claims 18 and 20, and the cancellation of claims 19 and 21-22. Likewise, the Examiner's allegations that claims 8 and 9 may be "substantial" duplicates are considered moot in view of the cancellation of claim 8.

VII- Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 6 and 10 under 35 U.S.C. § 102(b) as allegedly being anticipated by the Skiebe et al. article (J. Chem. Soc. Chem. Comm., 1994, pages 335-336)(hereinafter "Skiebe"). Office Action, pages 7-8. The Examiner also rejected claims 10-12, 14 and 16 under 35 U.S.C. § 102(b) as allegedly being anticipated by European Patent Application No. 0919520A2 (hereinafter the "the '520 application"). *Id.* at page 8. In addition, the Examiner rejected claims 10-16 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Pat. No. 7,758,889 to Sagman et al. (hereinafter "Sagman"). *Id.* The Examiner also rejected claims 6-7, 10-12, 14 and 16 under 35 U.S.C. § 102(b) for allegedly being anticipated by the Pantarotto et al. article (J.A. Chem. Soc., Vol. 124, pages 12543-12549)(hereinafter "Pantarotto"). *Id.* at page 9. The Examiner also rejected claim 5 under 35 U.S.C. § 102(b) for allegedly being anticipated by the Burely et al. article (J. Org. Chem. Vol. 67, pages 8316-8330)(hereinafter "Burley"). *Id.* at pages 9-10. For the reasons set forth below, Applicants respectfully traverse these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131 (emphasis added). Furthermore, "there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the

invention." *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991) (emphasis added). Accordingly, any difference between the claimed invention and the prior art defeats a claim of anticipation. *E.I. du Pont de Nemours & Co. v. Polaroid Graphics Imaging, Inc.*, 706 F.Supp. 1135, 1142 (D.Del. 1989) (emphasis added).

Based on the aforementioned standard, Skiebe, the '520 Application, Sagman, Pantarotto and Burley are not anticipatory prior art references because none of the references disclose each and every element of the claimed invention. For instance, the references at least do not disclose any amino acid compositions with R functionalities that comprise "a fullerene species derived from a buckyketone", as currently required for the rejected claims.

VII- Allowability of Claims 1-4, 8-9 and 17-22

Applicants acknowledge the Examiner's indication that claims 1-4, 8-9 and 17-22 would be allowable if "rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, and the claim objections set forth in this Office action." Office Action, page 10. Since the claims have been rewritten and amended to overcome the Examiner's rejections and objections, Applicants respectfully request an allowance of the claims.

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CONCLUSION

For at least the reasons stated above, Applicants assert that claims 1-7, 9-18 and 20 are in condition for allowance. Accordingly, Applicants respectfully request an allowance of the aforementioned claims. Applicants also request that the Examiner call Applicants' Attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

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Respectfully submitted,

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